



Comptroller General  
of the United States

Washington, D.C. 20548

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McArthur 149799

## Decision

**Matter of:** Haworth, Inc.

**File:** B-252826; B-252831

**Date:** July 29, 1993

Timothy McGee for the protester.  
Martin C. O'Brien, Esq., Department of the Air Force, for  
the agency.  
C. Douglas McArthur, Esq., and Christine S. Melody, Esq.,  
Office of the General Counsel, GAO, participated in the  
preparation of the decision.

### DIGEST

Award to higher priced vendor under the Federal Supply Schedule was not improper where agency obtained two other quotations for schedule vendors but determined that neither vendor offered a product that met the agency's minimum needs for compatibility with existing furniture.

### DECISION

Haworth, Inc. protests the issuance of delivery order Nos. F04700-93-F-A409 and F04700-93-F-A445 by the Department of the Air Force. The protester contends that the agency improperly disqualified the protester, who had submitted a quotation for items under the delivery order, in making award to a higher bidder.

We deny the protests.

In December 1992, the agency purchasing office received two separate requests to purchase certain line items of systems furniture, to interface with existing Herman Miller system furniture being moved to a new facility. The contract specialists to whom the requests were assigned verified Herman Miller's prices from the Federal Supply Schedule (FSS) and requested quotations from two local representatives of two other firms with FSS contracts for systems furniture, providing them with abstracts of the purchase requests, including quantities and the pertinent Herman Miller part numbers.

The protester's local representative, Pacific Office Interiors, submitted quotes on several products manufactured by the protester, as equals to the Herman Miller furniture, but altered the item descriptions and quantities in several respects. The agency determined that neither of the responses received met its requirement for compatibility with the existing furniture and issued delivery orders to Herman Miller, who had provided the only acceptable quotations. These protests followed.

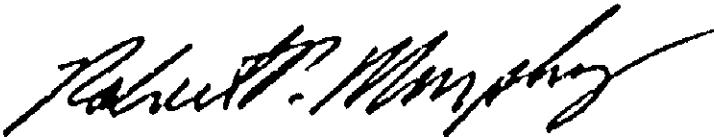
The protester essentially contends that the agency improperly insisted upon compatibility with Herman Miller furniture. The protester asserts that FSS contracts do not allow agencies to specify the products of particular manufacturers, but that inclusion on the FSS represents a conclusive determination that a contractor will meet minimum requirements for any order under the schedule. The protester argues further that the requirement for compatibility with Herman Miller furniture is overly restrictive of competition, since the new facility does not yet have furniture with which the ordered items must be compatible.

An agency ordering from the FSS need not order from the lowest priced vendor if it has a reasonable basis for purchasing its needs from the higher priced vendor, for example, where it requires a specific product to insure compatibility with existing equipment. Dictaphone Corp., B-228366, Jan. 12, 1988, 88-1 CPD ¶ 19. The determination of the agency's minimum needs and which products meet those needs is properly the responsibility of the procuring agency, which is most familiar with the conditions under which the equipment will be used. National Mailing Sys., B-250441, Jan. 28, 1993, 93-1 CPD ¶ 75. The protester's responses to the agency's inquiries indicate that it cannot supply furniture in the quantities and configurations necessary to interface with the existing furniture. Even if the building in which the furniture will be installed presently has no furniture, there is nothing unreasonable in the agency's determination to move existing furniture into the building and to require that the new furniture be compatible with that furniture. The agency therefore reasonably determined that only the Herman Miller product could meet its needs and properly issued delivery orders under the FSS to Herman Miller when it received no other quotes for compatible furniture.

Quotations solicited from FSS contractors are informational responses, indicating the products the vendors would propose to meet the government's needs and the prices of those products and related services, which the government may use as the basis for issuing a purchase order to an FSS

contractor, Herman Miller, Inc., B-232839, Jan. 26, 1989, 89-1 CPD ¶ 79. The FSS program provides federal agencies with a simplified process for obtaining commonly used supplies and services at prices associated with volume buying; when placing an order under an FSS, an agency is not required to seek further competition, synopsise the solicitation or award, or determine fair and reasonable pricing, since the planning, solicitation, and award phases of the FSS comply with Federal Acquisition Regulation requirements. Comspec Corp., B-245561, Jan. 15, 1992, 92-1 CPD ¶ 74. There was therefore nothing improper in the agency's decision to order its needs from the FSS, without issuing a formal solicitation.

The protests are denied.

  
for James F. Hinchman  
General Counsel